

G-008/GR-92-400 ORDER FOR HEARING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

In the Matter of the
Application of Minnegasco,
Division of Arkla, Inc., for
Authority to Increase Its
Rates for Natural Gas Service
in the State of Minnesota

ISSUE DATE: August 17, 1992

DOCKET NO. G-008/GR-92-400

NOTICE AND ORDER FOR HEARING

PROCEDURAL HISTORY

On July 2, 1992, Minnegasco (or the Company) filed a petition seeking a general rate increase of \$24,822,800, or approximately 5.5%, effective September 1, 1992. A projected test year ending June 30, 1992, was proposed. On August 17, 1992, the Commission issued its ORDER ACCEPTING FILING AND SUSPENDING RATES in the matter.

A copy of the Company's rate increase proposal is on file in the offices of the Department of Public Service, 790 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, and is open for public inspection during regular office hours.

Copies are also available for public inspection at the Company's office at 201 South Seventh Street, Minneapolis, Minnesota 55402 and its other offices in Minnesota.

FINDINGS AND CONCLUSIONS

I. Jurisdiction and Referral for Contested Case Proceedings

The Commission has jurisdiction over proposed rate changes under Minn. Stat. § 216B.16 (1992). If the Commission is unable to resolve all significant issues regarding the reasonableness of the proposed rates on the basis of the filing itself, the Commission is to refer the matter to the Office of Administrative Hearings for contested case proceedings. Minn. Stat. § 216B.16, subd. 2 (1992).

The Commission finds that it cannot satisfactorily resolve all questions regarding the reasonableness of the proposed rates on the basis of the Company's filing. The Commission will therefore refer the matter to the Office of the Administrative Hearings for contested case proceedings.

II. Proposed Rates

The Company proposes that any final rate increase be allocated to provide for the following revenue increases/decreases by major customer group/revenue category:

Residential	7.3%
Commercial & Industrial - Firm	4.0
Dual Fuel (Interruptible)	6.1
Large Dual Fuel (Interruptible)	(5.3)

The Commission has suspended the Company's proposed rates by separate Order. By further Order, the Commission will direct the Company to place an interim rate schedule into effect. Interim rates are subject to refund if the Commission ultimately orders a lower overall revenue increase than is recovered through interim rates. Minn. Stat. § 216B.16, subd. 3 (1992).

III. Issues to be Addressed

Parties shall address the following issues in the course of the contested case proceedings ordered herein:

- (1) Is the test year revenue increase sought by the Company reasonable or will it result in unreasonable and excessive earnings by the Company?
- (2) Is the rate design proposed by the Company reasonable?
- (3) Is the amount built into the Company's base rates for its test year conservation program reasonable, given actual and projected levels of spending?
- (4) Are the Company's proposed capital structure and return on equity reasonable?
- (5) Issues of cost allocation between the Company's regulated and non-regulated enterprises as discussed in the Commission's ORDER ACCEPTING FILING AND SUSPENDING RATES, issued in this docket on this date.

The parties may also raise and address other issues relevant to the Company's proposed rate increase.

IV. PROCEDURAL OUTLINE

Administrative Law Judge -- The Administrative Law Judge assigned to this case is Judge Richard C. Luis. His address and telephone number are as follows: Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138; (612) 349-2542.

Hearing Procedure -- Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57-14.62 (1992); the rules of the Office of Administrative Hearings, Minn. Rules, parts 1400.5100 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, Minn. Rules, parts 7830.0100 to 7830.4400. Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155, (612) 297-3000.

Under these rules parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under Minn. Rules, part 1400.7000, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Any party intending to appear at the hearing must file a notice of appearance (Attachment A) with Judge Luis within 20 days of the date of this Notice and Order for Hearing. Failure to appear at the hearing may result in facts and issues being resolved against the party who fails to appear.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions. They should take note that any material introduced into evidence may become public data unless a party objects and requests relief under Minn. Stat. § 14.60, subd. 2 (1992).

Any questions regarding discovery under Minn. Rules, parts 1400.6700 to 1400.6800 or informal disposition under Minn. Rules, part 1400.5900 should be directed to Margie Hendriksen, Special Assistant Attorney General, 780 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, (612) 296-0410.

The times, dates, and places of public and evidentiary hearings in this matter will be set by order of the Administrative Law Judge after consultation with the Commission and intervening parties.

Intervention -- Persons wishing to become formal parties to this proceeding shall promptly file petitions to intervene with Judge Luis. They shall serve copies of such petitions on all current parties and on the Commission. Minn. Rules, part 1400.6200.

Prehearing Conference -- A prehearing conference will be held in this matter on Thursday, August 27, 1992, at 9:30 A.M. in the Large Hearing Room at the Commission offices, 715 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101.

Persons intending to intervene in the matter should attend the conference, prepared to discuss time frames and scheduling. Other matters which may be discussed include the locations and dates of public hearings, discovery procedures, and similar issues.

Time Constraints -- The Commission is required to act on the Company's filing within ten months, or the proposed rates are deemed approved. Minn. Stat. § 216B.16, subd. 2 (1992). This ten-month period can be extended for two months, if the parties submit a settlement which is rejected by the Commission. Minn. Stat. § 216B.16, subd. 2 (1992).

The Commission asks the Office of Administrative Hearings to conduct contested case proceedings in light of these time constraints and requests that the Administrative Law Judge submit his final report by March 2, 1993, to allow the Commission adequate opportunity for thorough consideration of the case.

Application of Lobbying Provisions -- The lobbying provisions of the Ethics in Government Act, Minn. Stat. §§ 10A.01 et seq., apply to general rate cases. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Minnesota Ethical Practices Board, telephone number (612) 296-1720, with any questions.

Ex Parte Communications -- Restrictions on ex parte communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at Minn. Rules, parts 7845.7300-7845.7400, which all parties are urged to consult.

Settlements -- The Commission finds that it is in the public interest for parties to seek a just settlement of contested issues, such as those found in general rate proceedings. Settlements can help to avoid costly, time-consuming contested case proceedings. Public agencies are better able to devote their resources to other needs, if they do not need to

participate in lengthy contested case proceedings. Ratepayers are spared the major expense of utility participation in full administrative review.

Parties in the current docket should note that they can reach a negotiated resolution of all or any number of the issues which are contested. Parties should also be aware of the time constraints found in Minn. Stat. § 216B.16. This statute requires that the Commission reach a final determination concerning the requested rate increase within ten months of the initial filing date, or the proposed rate schedule will be deemed to have been approved by the Commission. An exception is provided in the case of settlements: "...except if a settlement has been submitted to and rejected by the commission, the schedule is deemed to have been approved 12 months after the initial filing."

While the Commission recognizes the desirability of just settlements, the Commission notes that any negotiated settlement must be submitted to the Commission for final determination. Because the Commission has jurisdiction over rate change proceedings under Minn. Stat. § 216B.16, the Commission must scrutinize any proposed rate change settlement and decide if the terms are in the public interest. The Commission therefore urges parties to file direct testimony or other documentation and proposed findings of fact to support each term which the parties advocate or oppose. Only with this supporting documentation can the Commission review the settlement in an informed fashion and decide if its terms are in the public interest or not.

ORDER

1. A contested case proceeding shall be held on the Company's proposed rate increase. The proceeding shall begin with a Prehearing Conference on Thursday, August 27, 1992, at 9:30 A.M. in the Large Hearing Room at the Commission offices, 715 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101.
2. This Order will be served on the Company, which shall mail copies of the Order to all municipalities and counties in its service area and to such other persons as the Department of Public Service may request.
3. Public hearings shall be held in this matter at locations within the service area of the Company.
4. In addition to the notices of the proposed change in rates required by the ORDER ACCEPTING FILING AND SUSPENDING RATES,

the Company shall give the following notices of the evidentiary and public hearings:

- a. Individual written notice to each customer, which may be in the form of a bill insert, and shall be served at least ten days before the first day of hearings.
 - b. Written notice to the governing bodies of all municipalities and counties in the area affected and to all parties in the Company's last two rate cases. These notices shall be mailed at least ten days before the first day of hearings.
 - c. Display advertisements in legal newspapers of affected counties and other newspapers of general circulation within the Company's service area. These advertisements shall appear at least ten days before the first day of hearings. They shall include the heading **RATE INCREASE NOTICE**, which heading shall appear in bold face type no smaller than 30 points.
 - d. The above notice shall contain the information required in Minn. Rules, part 7830.3200, subp. 2. The Company shall submit proposed notices for Commission approval prior to publication or service.
5. Parties are urged to enter into meaningful negotiations regarding settlement of the outstanding issues, to attempt to conclude their settlement negotiations in as timely fashion as practicable, and to submit direct testimony or other documentation to support and explain the settlement. Parties are also urged to submit proposed findings of fact.
 6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)